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PATENT

Docket No.: C36226/12336

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Giampiero VALLETTA) Examiner: Vickie Kim
Serial No.: 10/009,225) Group Art Unit: 1614
Filed: November 7, 2001)

P. Tuck
#8
10/10/03

For: USE OF VITAMIN COMBINATION FOR THE
TREATMENT OF PRURITUS AND NON-INFECTIVE
DISORDERS INVOLVING ITCHING AND/OR INFLAMMATION

September 15, 2003

RESPONSE TO ELECTION OF SPECIES REQUIREMENT
AND REQUEST FOR ONE MONTH EXTENSION OF TIME

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action mailed July 15, 2003, requiring an election of species and setting forth a shortened period of one month for response. A one month extension of time to respond is hereby requested, and the requisite fee for a small entity is enclosed herewith. 37 C.F.R. § § 1.136(a) and 1.17. Accordingly, this response is filed timely upon mailing with an executed certificate of mailing on or before September 15, 2003. 37 C.F.R. §1.8

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It is not believed that this response occasions any additional fees, but should there be any fees, please charge the same to Deposit Account No. 02-4467.

ELECTION OF SPECIES

In response to the supplemental election requirement set forth in the Office Action, Applicant, notwithstanding its traversal of the requirement set forth below, hereby elects “pruritis”, with respect to claims 8-11 and 25-28.

REMARKS

In response to a restriction requirement previously raised, Applicant, with traverse, restricted the claims under consideration to claims 8-11 and 25-28. Presently, the Examiner has required Applicant elect a species from a range of various disorders.

The reasoning the Examiner provides for both of these requirements is the same; it relies on the Examiner’s conclusion that the subject claims lack novelty in view of one or more patents the Examiner characterizes as “demonstrate[ing] that the claimed feature does not define a contribution which each of the inventions, considered as a whole, makes over the prior art.” Moreover, the Examiner asserts this conclusion even though no first action on the merits has been issued and no claims stand rejected in the application. As with the prior requirement for restriction, Applicant respectively traverses the requirement for election (while electing “pruritis” for further examination).

The instant application is a national stage application of a PCT filing. Therefore, pursuant to MPEP §1893.03(d), to support the requirement for restriction, the Examiner must demonstrate that the claim groupings identified lack unity of invention. See also